

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-1755

United States of America,

Appellee,

v.

Carlos Sanchez-Perez, also known as
Jesus Pereda-Lopez

Appellant.

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Appeal from the United States
District Court for the
Eastern District of Arkansas.

[UNPUBLISHED]

Submitted: December 26, 2000

Filed: January 10, 2001

Before RICHARD S. ARNOLD, HANSEN, and BYE, Circuit Judges.

PER CURIAM.

Carlos Sanchez-Perez pleaded guilty to illegally re-entering the United States, having previously been deported subsequent to a conviction for commission of an aggravated felony, in violation of 8 U.S.C. § 1326(b)(2). The district court¹ sentenced him to seventy-eight months imprisonment and three years supervised release.

¹The Honorable Susan Webber Wright, Chief Judge, United States District Court for the Eastern District of Arkansas.

Sanchez-Perez renews on appeal the argument he presented below, that the statute--which penalizes an alien “whose removal was subsequent to a conviction for commission of an aggravated felony,” see 8 U.S.C. § 1326(b)(2)--is ambiguous. “Subsequent to” could mean either “after” or “as a result of,” Sanchez-Perez argues, and he is entitled to the more lenient reading. He contends that, as his deportation resulted from illegally re-entering the United States in violation of a prior deportation order, not being convicted for an aggravated felony, his offense level should not have been enhanced by sixteen levels under U.S.S.G. § 2L1.2(b)(1)(A).

Sanchez-Perez concedes in his brief that “nearly all dictionaries define the word ‘subsequent’ to connote ‘following in time’ or sequential.” We conclude that the word should be understood to carry its common meaning. See Beef Nebraska, Inc. v. United States, 807 F.2d 712, 716 (8th Cir. 1986) (fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning); BLACK’S LAW DICTIONARY 1427 (6th ed. 1990) (subsequent means following in time, coming or being later than something else, or succeeding).

This meaning is accurately reflected in the Guidelines commentary. See U.S.S.G. § 2L1.2, comment. (n.1) (“‘Deported after a conviction’ means that the deportation was subsequent to the conviction, whether or not the deportation was in response to such conviction.”); Stinson v. United States, 508 U.S. 36, 38 (1993) (Guidelines commentary that interprets or explains particular Guideline is authoritative unless it violates Constitution or federal statute, or is inconsistent with or is plainly erroneous reading of, that Guideline).

Accordingly, we affirm the judgment of the district court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.